



South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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*NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.*

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## HOUSE WEEK IN REVIEW

The House amended, approved, and sent to the Senate **H.3530**, the **PUBLIC SERVICE COMMISSION REFORM** bill. This legislation establishes new provisions regarding qualifications, screening, and terms of membership for the Public Service Commission, the seven-member body elected by the General Assembly to regulate South Carolina's public utilities. The bill provides that for an election for a term beginning after June 30, 2004, the elected members shall have a high school degree or its equivalent. In screening persons for election to the Public Service Commission for a term beginning after June 30, 2004, the joint committee shall consider the knowledge and experience of the appointees in the following fields: (1) energy issues; (2) telecommunication issues; (3) consumer protection and advocacy issues; (4) water and wastewater issues; (5) finance, economics, and statistics; (6) accounting; (7) engineering; (8) law; or (9) business operation or administration. Under the bill, any member elected at the 2003 election is considered eligible for reelection notwithstanding any other provision of this legislation. Candidates for election to the Public Service Commission in 2003 must file a Statement of Economic Interest with the State Ethics Commission. The Statement of Economic Interest must also contain a supplemental statement showing all contributions from any person in any amount to support his candidacy for election to the commission in 2002 or 2003. The bill provides that if a family member of a sitting legislator runs for an office which is elected by the General Assembly, the member of the General Assembly related to the family member shall abstain from voting for that person. The bill revises provisions relating to seeking or offering pledges of votes in Public Service Commission elections, so as to prohibit the direct or indirect seeking of a pledge or the offering of such a pledge until after the joint committee has formally released its report as to the qualifications of its nominees to the General Assembly. The bill prohibits membership on and restricts employment by the Public Service Commission of a person associated with a regulated business. The bill provides for that commissioners are bound by the Code of Judicial Conduct and the State Ethics Act and provides for annual training for commissioners and their employees on ethics and the Administrative Procedures Act. The legislation provides that each commissioner shall devote full time to his duties as a commissioner, and shall not engage in any other employment, business, profession, or vocation during the normal business hours of the Public Service Commission. The bill divides the commission's staff into an advisory staff and an advocacy staff and provides for their responsibilities. The advisory staff shall provide research and technical support to the commission and advice and recommendations to the commission on all matters. The advocacy staff shall represent the public interest of South Carolina before the commission. This representation includes: (a) concerns of the public users and consumers of public utility services, regardless of the class of customer; (b) economic development and job attraction and retention in South Carolina; and (c) preservation of the financial integrity of the state's public utilities and the continued investment in and maintenance of utility facilities. Under the legislation the Division of Consumer Advocacy of The Department of Consumer Affairs retains its current responsibilities with regard to Public Service Commission



matters. The bill prohibits ex parte communications with and by a commissioner or advisory staff in connection with a pending proceeding.

Members adopted House Resolution **H.3627** expressing the sense of the House of Representatives that **NO PERMANENT LAW PROVISIONS SHOULD BE INCLUDED IN THE GENERAL APPROPRIATIONS BILL** for fiscal year 2003-2004, when the bill is under consideration in the House beginning the week of March 10, 2003.

The House amended, approved, and sent to the Senate **H.3084**, the "**YOUTH ACCESS TO TOBACCO ACT OF 2003**." This bill revises laws prohibiting the sale of tobacco to underage individuals and establishes new provisions regarding youth access to tobacco. Under the legislation, it is unlawful for a person to sell a tobacco product to an individual who does not present upon demand proper proof of age. Proof of age is not required from an individual who the person reasonably believes to be over twenty-seven years of age. Failure to require identification to verify a person's age shall be used as evidence to the knowing and intentional violation of this provision unless the person knows the individual is at least eighteen years of age. Proof that is demanded, is shown, and reasonably is relied upon for the individual's proof of age is a defense to an action initiated under these provisions. To determine whether a person believes an individual is at least twenty-seven years of age, a court may consider, but is not limited to considering, proof of the individual's general appearance, facial characteristics, behavior, and manners. These provisions do not apply to mail order sales. The bill revises criteria for what will be accepted as proof of age so as to limit it to a driver's license or identification card issued by this state, or a United States Armed Services identification card. The bill requires retail distributors of tobacco products to train their retail sales employees regarding these new procedures. In lieu of other pertinent penalties, a retail establishment that fails to comply with this training requirement must be fined not more than one thousand dollars. The legislation provides that tobacco products may be accessible only in vending machines located in an establishment: (1) which is open only to persons who are eighteen years of age or older; or (2) where the vending machine is under continuous control by the owner or licensee of the premises, or an employee of the owner or licensee, can be operated only upon activation by the owner, licensee, or employee before each purchase, and is not accessible to the public when the establishment is closed. Individuals performing these duties in vending machine sales are subjected to the legislation's requirements for demanding proof of age. Vending machines that distribute tobacco products in establishments must meet these requirements within one hundred twenty days after the effective date of this provision or must be removed. Under the bill, it is unlawful for an individual less than eighteen years of age to purchase, accept receipt, attempt to purchase, or attempt to accept receipt of a tobacco product, or present or offer to a person proof of age which is false or fraudulent for the purpose of purchasing or possessing a tobacco product. However, a person less than eighteen years of age may be enlisted by local law enforcement agencies to test a community's compliance with this section and to reduce the extent to which tobacco products are sold or distributed to underage individuals when the testing is under the direct supervision of the law enforcement agency and with the individual's parental consent. The bill also authorizes such an



individual to be enlisted by the South Carolina Department of Alcohol and Other Drug Abuse Services, or a county alcohol and drug abuse authority to test an outlet's compliance or to collect data for the federally mandated Youth Access to Tobacco Study. The bill provides that it is unlawful for an individual less than eighteen years of age to possess a tobacco product. This provision does not apply to the possession of tobacco products by an individual less than eighteen years of age who delivers tobacco products as a part of his employment responsibilities. A person or individual that intentionally or knowingly violates a provision contained in this legislation either in person, by agent, or in any other way, is guilty of a misdemeanor and, upon conviction, must be punished as follows: (1) for a first offense, by a fine not less than one hundred dollars; (2) for a second offense, which occurs within three years of the first offense, by a fine not less than two hundred dollars; and (3) for a third or subsequent offense, which occurs within three years of the first offense, by a fine not less than three hundred dollars. All fines must be placed in the state general fund and distributed in the following manner: (a) one-half must be distributed to the treasurer of the county in which the conviction occurred; and (b) one-half must be distributed to the county alcohol and drug abuse commission and used for funding youth smoking prevention programs. A violation of a provision of this legislation is triable exclusively in either municipal or magistrate court. Instead of the penalties listed above, a court may require an individual who is less than eighteen years of age who illegally purchases or possesses a tobacco product to perform not less than twenty hours of community service for a first offense and not less than forty hours of community service for a second or subsequent offense. A person who is less than eighteen years of age and who has been convicted of violating a provision of this legislation may have his record expunged upon becoming eighteen years of age if he has paid any fine imposed upon him and successfully completed any court-ordered community service.

The House amended, approved, and sent to the Senate **H.3165**, a bill providing that a **MENTALLY RETARDED PERSON IS NOT SUBJECT TO THE DEATH PENALTY**. This bill provides that a person convicted of murder who was mentally retarded at the time of the offense must not be sentenced to death. Such a defendant who is determined to be mentally retarded at the time of the offense must, instead, be sentenced to life imprisonment if a statutory aggravating circumstance is found or thirty years if no aggravating circumstance is found.

The House amended, approved, and sent to the Senate **H.3016**, a bill providing for the **FORFEITURE OF CASH CONFISCATED DURING A PROSTITUTION ARREST**. This bill establishes a forfeiture procedure for cash that is confiscated from a person arrested for a prostitution violation. The legislation provides that, after payment of all costs of the seizure and forfeiture proceeding, all remaining cash forfeited must be deposited in the General Fund to be distributed as follows: (1) seventy-five percent to the law enforcement agency or agencies; and (2) twenty-five percent to the prosecuting agency.

The House approved and sent to the Senate **H.3137**, a bill **REVISING QUALIFICATIONS FOR PROBATE JUDGES**. The legislation phases in new



qualifications for probate judges over a three-year period. Ultimately (after December 31, 2007), a person is not eligible to hold the office of judge of probate unless the person at the time of his election: (1) is a citizen of the United States and a resident of this State; (2) is twenty-one years of age; (3) is a qualified elector of the county in which he is to be a judge; (4) has obtained a four year bachelor's degree from an accredited post-secondary institution or, if he has no degree, has four years' experience as a full time associate probate judge in a probate judge's office in this State; and (5) has not been convicted of a felony offense or an offense involving moral turpitude under the laws of this State, any other state, or the United States. The legislation exempts current probate judges (those holding office as of July 1, 2004) from the new requirements.

The House approved and sent to the Senate **H.3274**. This bill requires that **REGULATIONS OR POLICIES ADOPTED BY SCHOOL BOARDS REGARDING CHARGES AND COLLECTIONS OF FEES MUST TAKE INTO ACCOUNT THE STUDENTS' ABILITY TO PAY** and must hold the fee to a minimum reasonable amount. The bill provides that fees may not be charged to students who are eligible for free lunches and fees must be reduced *pro rata* for students eligible for reduced price lunches.

The House approved and sent to the Senate **H.3229**, a bill authorizing the **DISPLAY OF TEN COMMANDMENTS AND OTHER DOCUMENTS ON STATE PROPERTY**. This bill authorizes an object containing the words of the Ten Commandments to be displayed on real property owned by the state along with other documents of historical significance that have formed and influenced the United States legal or governmental system.

The House approved and sent to the Senate **H.3289**, a bill providing that **VERIFICATION IS NOT REQUIRED FOR TORT CLAIMS**. This bill revises provisions relating to the South Carolina Tort Claims Act, so as to eliminate the requirement that a claim be verified.

The House approved and sent to the Senate **H.3025**, a bill providing for **IRREVOCABLE PRESIDENTIAL ELECTOR DECLARATIONS**. This bill provides that a presidential elector is deemed to have irrevocably voted for a candidate at the time he declares for a candidate.

The House approved and sent to the Senate **H.3280**, a bill concerning **LEGISLATORS SERVING ON THE SOUTH CAROLINA INFRASTRUCTURE BANK**. This bill revises the provision prohibiting members of the General Assembly from serving on boards and commissions by adding the South Carolina Transportation Infrastructure Bank to the list of exemptions. The change conforms the list of exemptions to other provisions concerning the composition of the bank.

The House returned **S.167**, pertaining to **SHARK CATCH LIMITS**, to the Senate with amendments. This bill sets catch limits for Atlantic sharpnose and bonnethead sharks and requires that these shark species must be brought to the dock or landed with head and tail fin intact. The bill also provides that pertinent provisions of the

federal Fishery Management Plan for Atlantic tuna, swordfish, and sharks are declared to be the law of this State and apply in state waters; provided, however, no federal recreational angling permit or federal charter boat/head boat permit is required for the taking or possession of sharks in the waters of this State.

The House amended, approved, and sent to the Senate **H.3353**, regarding **FOXES AND COYOTES**. This bill provides definitions of what is considered an "enclosure" and "enclosure operator" for purposes of fox and coyote hunting, and identifies an enclosure operator's responsibilities. The bill allows the sale/resale of live foxes/coyotes into an enclosure only as provided in the bill. The bill requires and provides for enclosure permits, which would be issued and overseen by the Department of Natural Resources (DNR). The bill provides that only licensed trappers can sell live foxes/coyotes and only operators of permitted enclosures can buy and release them. The bill provides that it is unlawful to import or cause to have imported, live coyotes or foxes, and it is unlawful to release a coyote except as authorized in the bill. Penalties are provided for violation of these provisions. The bill allows coyotes to be hunted at night in the same manner in which foxes, bobcats, and raccoons are hunted. The bill requires the owner of a rabbit enclosure to immediately destroy foxes and coyotes trapped outside the trapping season.

The House approved and sent to the Senate **H.3035**, regarding **AUTOMATED EXTERNAL DEFIBRILLATORS** (AED's). This bill provides that a course approved by the Department of Health and Environmental Control may be used towards satisfying the training requirements for persons designated as AED users.

The House amended, approved, and sent to the Senate **H.3575**, a bill pertaining to **UNCLAIMED DEMUTUALIZATION PROCEEDS OF INSURANCE COMPANIES**. This bill provides for treatment of unclaimed property payable or distributable in the course of the demutualization of an insurance company as abandoned in five years. The provision does not apply to amounts due and owing to the state or any political subdivision.

The House concurred in Senate amendments to **H.3589** and ordered the joint resolution enrolled for ratification. The joint resolution provides that **NEW APPLICATIONS MAY BE ACCEPTED UNDER THE STATE EMPLOYEE ADOPTION ASSISTANCE PROGRAM** for a specified period of time under certain conditions.

## HOUSE COMMITTEE ACTION

### JUDICIARY

The full House Judiciary Committee met on Tuesday, February 25, and reported out several bills.

The committee gave a report of favorable with amendments on **H.3084**, the **"YOUTH ACCESS TO TOBACCO ACT OF 2003."** This bill revises laws prohibiting



the sale of tobacco to underage individuals and establishes new provisions regarding youth access to tobacco. Under the legislation, it is unlawful for a person to sell a tobacco product to an individual who does not present upon demand proper proof of age. Proof of age is not required from an individual who the person reasonably believes to be over twenty-seven years of age. Failure to require identification to verify a person's age shall be used as evidence to the knowing and intentional violation of this provision unless the person knows the individual is at least eighteen years of age. Proof that is demanded, is shown, and reasonably is relied upon for the individual's proof of age is a defense to an action initiated under these provisions. To determine whether a person believes an individual is at least twenty-seven years of age, a court may consider, but is not limited to considering, proof of the individual's general appearance, facial characteristics, behavior, and manners. These provisions do not apply to mail order sales. The bill revises criteria for what will be accepted as proof of age so as to limit it to a driver's license or identification card issued by this state, or a United States Armed Services identification card. The bill requires retail distributors of tobacco products to train their retail sales employees regarding these new procedures. In lieu of other pertinent penalties, a retail establishment that fails to comply with this training requirement must be fined not more than one thousand dollars. The legislation provides that tobacco products may be accessible only in vending machines located in an establishment: (1) which is open only to persons who are eighteen years of age or older; or (2) where the vending machine is under continuous control by the owner or licensee of the premises, or an employee of the owner or licensee, can be operated only upon activation by the owner, licensee, or employee before each purchase, and is not accessible to the public when the establishment is closed. Individuals performing these duties in vending machine sales are subjected to the legislation's requirements for demanding proof of age. Vending machines that distribute tobacco products in establishments must meet these requirements within one hundred twenty days after the effective date of this provision or must be removed. Under the bill, it is unlawful for an individual less than eighteen years of age to purchase, accept receipt, attempt to purchase, or attempt to accept receipt of a tobacco product, or present or offer to a person proof of age which is false or fraudulent for the purpose of purchasing or possessing a tobacco product. However, a person less than eighteen years of age may be enlisted by local law enforcement agencies to test a community's compliance with this section and to reduce the extent to which tobacco products are sold or distributed to underage individuals when the testing is under the direct supervision of the law enforcement agency and with the individual's parental consent. The bill also authorizes such an individual to be enlisted by the South Carolina Department of Alcohol and Other Drug Abuse Services, or a county alcohol and drug abuse authority to test an outlet's compliance or to collect data for the federally mandated Youth Access to Tobacco Study. The bill provides that it is unlawful for an individual less than eighteen years of age to possess a tobacco product. This provision does not apply to the possession of tobacco products by an individual less than eighteen years of age who delivers tobacco products as a part of his employment responsibilities. A person or individual that intentionally or knowingly violates a provision contained in this legislation either in person, by agent, or in any other way, is guilty of a misdemeanor and, upon conviction, must be punished as follows: (1) for a first



offense, by a fine not less than one hundred dollars; (2) for a second offense, which occurs within three years of the first offense, by a fine not less than two hundred dollars; and (3) for a third or subsequent offense, which occurs within three years of the first offense, by a fine not less than three hundred dollars. All fines must be placed in the state general fund and distributed in the following manner: (a) one-half must be distributed to the treasurer of the county in which the conviction occurred; and (b) one-half must be distributed to the county alcohol and drug abuse commission and used for funding youth smoking prevention programs. A violation of a provision of this legislation is triable exclusively in either municipal or magistrate court. Instead of the penalties listed above, a court may require an individual who is less than eighteen years of age who illegally purchases or possesses a tobacco product to perform not less than twenty hours of community service for a first offense and not less than forty hours of community service for a second or subsequent offense. A person who is less than eighteen years of age and who has been convicted of violating a provision of this legislation may have his record expunged upon becoming eighteen years of age if he has paid any fine imposed upon him and successfully completed any court-ordered community service.

The committee gave a report of favorable with amendment on **H.3231**, a bill that **REDUCES BLOOD ALCOHOL CONTENT LIMITS IN DRIVING UNDER THE INFLUENCE PROVISIONS** and other provisions relating to blood alcohol limits. The legislation revises South Carolina law in light of the National Highway Traffic Safety Administration's requirement that DUI blood alcohol limits be reduced to .08 percent. The legislation revises the legal presumptions that can be made according to blood alcohol concentrations in DUI provisions. In establishing conclusive proof that the driver was not under the influence of alcohol, the legislation reduces the alcohol concentration from 0.05 to 0.04 percent. The legislation establishes that an alcohol concentration greater than 0.04 and less than 0.08 percent (reduced from 0.05 to 0.10 percent) does not give rise to an inference of being under the influence of alcohol, but that other evidence can be considered with this evidence to establish guilt or innocence. This legislation reduces the alcohol concentration required to make an inference that a person is under the influence, from 0.10 to 0.08 percent. The legislation revises the DUI per se provisions by making it unlawful for a person with an alcohol concentration of .08 percent (reduced from .10 percent) to drive a vehicle. The legislation also removes a provision that prevents DUI per se provisions from applying to cases arising out of a roadblock or license checkpoint. The legislation adds a provision which provides that a person charged with a DUI per se violation must have been given notice of intent to prosecute under the DUI per se provisions not later than 60 days after arrest. The legislation also makes all pertinent adjustments to apply the new, reduced blood alcohol concentration limits to provisions pertaining to implied consent for blood alcohol testing, driver's license suspensions for DUI matters, the application of automobile insurance penalties, the operation of watercraft with under the influence, and the use of firearms while under the influence.



The committee gave a report of favorable with amendments on **H.3082**, a bill **REVISING THE REVIEW OF REGULATIONS BY THE GENERAL ASSEMBLY**. The bill revises the process for legislative review of regulations so as to provide that, if the full Senate/House committee to which a regulation is referred takes no action on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting. Sine die adjournment of the General Assembly tolls the running of this sixty-day period. Within sixty days after the next convening of the General Assembly, excluding special sessions called by the Governor, the regulation must be put on the agenda of the full committee. If at the full committee meeting the committee: (a) does not vote on the regulation, the regulation is deemed permanently withdrawn at the time of the sine die adjournment of the two year legislative session; (b) votes on the regulation and the committee votes against the regulation, the committee may: (i) introduce a joint resolution disapproving the regulation; (ii) take no further action, and the regulation is deemed permanently withdrawn at the time of the sine die adjournment of the two year legislative session. (c) votes on the regulation and the committee approves the regulation, the committee may: (i) introduce a joint resolution approving the regulation; (ii) take no further action, and the regulation takes effect sixty days after the committee voted to approve the regulation if the committee in the other body, to which the regulation was referred, has not exercised its right to take no action or has not voted against the regulation. If conflicting action is taken in the Senate and House of Representatives concerning a regulation, and no joint resolution is enacted approving or disapproving the regulation, the regulation is considered permanently withdrawn at the time of the sine die adjournment of the two year legislative session. The full committee to which a regulation is referred shall report to the Legislative Council any action the full committee takes on a regulation, including not voting on a regulation. Any regulation approved pursuant to this provision becomes effective upon publication in The State Register. The bill provides that a regulation may not be filed under emergency provisions if the committee to which the regulation was referred has exercised its rights. The legislation also revises the format in which a regulation is to be submitted so as to provide that a regulation proposing to amend an existing regulation, or any clearly identifiable subdivision or portion of a regulation, must contain the full text of the existing regulation. Text that is proposed to be deleted must be stricken through, and text that is proposed to be added must be underlined. The legislation also provides that agency submissions, or resubmissions are to be filed first with the Legislative Council, who, in turn, submits the documents to the President of the Senate and the Speaker of the House of Representatives.

The committee gave a favorable report on **H.3473**, a bill pertaining to **GRAVE ROBBERY/DESECRATION**. This bill revises provisions relating to the destruction or desecration of human remains or repositories of human remains, so as to provide that it is unlawful for a person to steal anything of value from cemeteries and other repositories of human remains. The bill revises penalties so as to eliminate the misdemeanor offense and add community service to the penalties required for the felony offense.

The committee gave a favorable report on **H.3289**, a bill providing that **VERIFICATION IS NOT REQUIRED FOR TORT CLAIMS**. This bill revises provisions relating to the South Carolina Tort Claims Act, so as to eliminate the requirement that a claim be verified.

The committee gave a favorable report on **H.3229**, a bill authorizing the **DISPLAY OF TEN COMMANDMENTS AND OTHER DOCUMENTS ON STATE PROPERTY**. This bill authorizes an object containing the words of the Ten Commandments to be displayed on real property owned by the state along with other documents of historical significance that have formed and influenced the United States legal or governmental system.

The committee gave a report of favorable with amendments on **H.3037**, a bill providing that a **CANDIDATE'S NAME MAY PRINTED ONLY ONCE ON A BALLOT**. The legislation provides that the authority charged by law with printing the ballot shall print the name of a candidate accompanied by whatever political parties nominate him and may not print his name more than once.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **EDUCATION AND PUBLIC WORKS**

#### **H.3677 REVISION OF VOCATIONAL EDUCATION/PROGRAM/TRAINING REFERENCES** Rep. Talley

This bill changes statutory references to phrases including "vocational education," "vocational training," and "vocational programs," to "career and technology education," "career and technology training," and "career and technology programs."

#### **H.3686 INSURANCE COMPANIES OBTAINING TITLE TO VEHICLE** Rep. Walker

This bill provides that when an insurance company obtains title to a vehicle from settling a total loss claim, the insurance company may obtain a title to the vehicle designated as "salvage."

#### **S.408 ARMED FORCES VETERANS MONUMENT** Sen. Courson

This joint resolution requires that the state flag of South Carolina be among those flags which will be flown at the future Armed Forces of the United States Veterans Monument on the grounds of the Capitol Complex. The bill also revises from March 1, 2003, until June 1, 2003 the date on which the Monument Commission is to



report to the General Assembly on the proposed design, location, and dedication date of the monument.

**H.3699 SOUTH CAROLINA COLLEGE AND UNIVERSITY BOARD OF  
REGENTS/REPEAL OF STATE TECH BOARD AND STATE  
COMMISSION ON HIGHER EDUCATION Rep. Sheheen**

This bill establishes and provides for a fifteen member South Carolina College and University Board of Regents (the Board). The bill repeals those sections of law which create and provide for the State Board for Technical and Comprehensive Education and the State Commission on Higher Education.

The newly established Board is charged to develop a coordinated system of higher education in South Carolina and determine and govern the affairs of the constituent institutions, subject to the powers and responsibilities of the institutions' respective boards as provided in the bill. "Constituent institutions" are state-supported-post-secondary educational institutions, including technical and comprehensive educational institutions.

Responsibilities and powers of the Board include but are not limited to:

- Determining the functions, educational activities, and academic programs of these institutions as provided in the bill;
- Approving the establishment of any new publicly supported institution of higher education;
- Setting tuition and fees at these institutions;
- Setting enrollment levels at these institutions;
- Developing and presenting a budget for each of these institutions.

The bill delineates the powers and duties of the governing bodies of the constituent institutions, including but not limited to the following:

- promoting the development of the institution and helping it serve the State in a way that will complement the activities of the other constituent institutions;
- Advising the Board on that institution's affairs;
- With the advice and consent of the Board, appointing a college president, treasurer, and secretary, and prescribing their duties and terms of office;
- Making bylaws and regulations for management and operation of the institution, subject to the approval of the Board;
- Conferring degrees.

**H.3700 SCHOOL NURSE REQUIREMENT Rep. J. Brown**

This bill requires that beginning with the school year 2003-2004, a full-time school nurse is required for and must be on the premises of each elementary public school in the State during regular school hours.

The bill requires the General Assembly to appropriate funds necessary for this requirement from the Education Finance Act.

**H.3701 CHARACTER EDUCATION Rep. Hinson**

This bill requires the State's public school teachers to indicate a letter grade and comments on students' report cards under the heading of "Conduct" as an assessment of how the student expresses certain specified character traits.

**H.3703 ENGLISH EDUCATION ACT Rep. Keegan**

This bill provides that K-12 public school students have the right to receive an English language education, and the student's parent or legal guardian has legal standing to sue for enforcement of this and other provisions included in the bill.

The bill requires that beginning October 1, 2004, school districts must annually ascertain the number of, and classify as specified in the bill, the K-12 district students who are "English language learners" (children not fluent in English, as described in the bill). The bill requires that this information must then be posted on websites of schools and school districts in which English language learners are enrolled. The bill also requires that public schools report to the local district each English language learners' progress toward inclusion in an English language mainstream classroom.

The bill requires (except under certain conditions specified in the bill where the parent or legal guardian consents to a waiver) and provides for, children enrolled in the State's public schools to be taught English without delay and placed in English language classrooms as soon as practicable after achieving reasonable fluency. The bill provides that school districts shall educate children who are English language learners through sheltered English immersion during a temporary transition period normally not intended to exceed two school years. The bill provides that a school is not eligible for more than two fiscal years of state entitlement monies on behalf of a student identified for inclusion in this English Education Act.

The bill also provides for monitoring of students learning English and other academic subjects through standardized testing, and requires that the state-approved standardized test must be administered at least once each year to English language learners in grades three through twelve.

**H.3707 HANDICAPPED PARKING Rep. Miller**

This bill provides that the placard that is issued to allow a handicapped person to park free of charge must have the person's driver's license number or special identification card number printed on it.



## JUDICIARY

### **S.204 LAND USE DISPUTE RESOLUTION Sen. McConnell**

This bill establishes a procedure for settling disputes between private property owners and local governments.

### **H.3678 RECIPROCAL CONCEALED WEAPONS AND HANDGUN PERMITS**

**Rep. Kirsh**

This bill provides that a valid concealed weapons or handgun permit or license issued by another state is valid in South Carolina if that state's requirements for permits are substantially equal to those of this state, and if that state grants the same right to residents of South Carolina who have valid concealed handgun permits. The bill provides for the administration of reciprocal concealed weapons and handgun permits for permit holders of this and other states.

### **H.3681 MURDER OF CHILD'S OTHER PARENT GROUNDS FOR TERMINATION OF PARENTAL RIGHTS Rep. E. H. Pitts**

This bill includes under the grounds for termination of parental rights, the conviction of a parent for the murder of the child's other parent.

### **H.3684 CERTAIN COLORED LIGHTS DISALLOWED ON PERSONALLY OWNED VEHICLES Rep. Lucas**

This bill provides that it is unlawful for persons to display on their personally owned vehicles certain colored lights. The bill establishes exceptions and provides penalties for violations.

### **S.184 IMPROPER PATIENT RELATIONSHIPS OF PSYCHOTHERAPISTS, ALCOHOL AND DRUG ABUSE COUNSELORS, AND OTHER CONFIDANTS Sen. McConnell**

This bill establishes penalties for psychotherapists, alcohol and drug abuse counselors, and other confidants who have sexual contact/battery with a patient and penalties for sexual contact/battery with former patients by means of therapeutic deception.

### **S.218 PROVISIONS AGAINST TRADING IN STOLEN GEMS Sen. Mescher**

This bill revises provisions relating to a dealer's civil liability for damages to the true owner for knowingly purchasing stolen precious metal, so as to include the purchase of a precious or semiprecious stone or gem. The bill requires a reasonable inquiry by the dealer into the true ownership of the item and provides for the additional remedy of immediate return of the item upon demand by the true owner.

### **S.224 DEFINITION OF YOUTHFUL OFFENDER Sen. Hutto**

This bill revises provisions relating to the corrections and treatment of youthful offenders, so as to provide that a youthful offender includes a person under seventeen years of age who has committed a nonviolent crime that is a Class D felony.

**H.3687 RECESS OF THE GENERAL ASSEMBLY Rep. Bailey**

This concurrent resolution provides that when each house of the General Assembly adjourns on Thursday, March 20, 2003, the General Assembly shall stand in recess until Tuesday, May 6, 2003, with each house to meet in statewide session beginning at 12:00 noon on that day. During this period, no mileage or subsistence shall be paid to members of the General Assembly except to those members of the House Ways and Means Committee and Senate Finance Committee who are required to meet for purposes of developing the 2003-2004 General Appropriations Act.

**H.3690 IMMOBILIZATION OF VEHICLES OF REPEAT D.U.I. OFFENDERS**

**Rep. Harrison**

This bill provides that the court shall immobilize vehicles owned by a person who is convicted for a second or subsequent violation of the offense of unlawfully operating a motor vehicle which under the influence of alcohol, drugs, or a combination of both under certain circumstances.

**H.3691 NOTIFICATION REQUIREMENTS FOR LAW ENFORCEMENT  
ALCOHOL SALES AGE VERIFICATION CHECKS Rep. Harrison**

This bill provides that a law enforcement agency that conducts an age verification check at a retail location shall notify the retailer in writing as to whether the compliance check was satisfactory or unsatisfactory, the retail location that was checked, and the date that the compliance check took place. The law enforcement agency shall notify the retailer within ten days of the completion of the compliance check.

**H.3692 LEGAL REPRESENTATION OF AGENCY BY A DEPUTY SHERIFF  
WHO IS AN ATTORNEY Rep. Harrison**

This bill provides that a deputy sheriff who is an attorney may act as an attorney on behalf of his agency under certain circumstances.

**H.3697 RETENTION OF RECORDS BY MAGISTRATE AND MUNICIPAL  
COURTS Rep. Lloyd**

This bill revises provisions relating to the recording and acknowledgment of testimony presented before a magistrate, so as to provide that in a case in which a stenographer records the testimony or a case in which testimony is electronically recorded, the record of the testimony must be retained by the magistrate for at least sixty days. The bill provides that if the magistrate fails to maintain the record of this testimony, then an appellate court must grant the defendant a new trial upon an appeal of the magistrate's verdict. The bill revises provisions relating to the right of a party in certain municipal court trials to have testimony recorded, so as to provide that a municipal court judge must retain a recording of testimony for at least sixty days after a trial. The bill provides that an appellate court may grant a defendant a new trial if the municipal court judge fails to maintain a record of the testimony for at least sixty days.



**H.3702 PROPOSED CONSTITUTIONAL AMENDMENT ON THE RIGHT OF  
THE PEOPLE TO HUNT, FISH, AND TAKE GAME Rep. White**

This joint resolution proposes to amend the provisions of the South Carolina Constitution relating to the declaration of rights so as to provide for the right of the people to hunt, fish, and take game.

**H.3704 BEER OR WINE SALES PERMITS DISALLOWED FOR  
ESTABLISHMENTS NEAR A SCHOOL, PLAYGROUND, OR CHURCH  
Rep. McLeod**

This bill revises provisions relating to the requirements for obtaining a permit authorizing the sale of beer or wine, so as to provide that a location for which an application for a permit is made which is within three hundred feet of a school, playground, or church is an "unsuitable" location.

**H.3706 DRIVING WHILE GROSSLY INTOXICATED Rep. Talley**

This bill establishes special provisions to apply to gross intoxication in driving under the influence statutes and related provisions.

**S.6 FAMILY PRIVACY PROTECTION ACT REVISIONS Sen. McConnell**

This bill revises definitions used in the Family Privacy Protection Act of 2002, so as to change the definition of "commercial solicitation." The bill revises the prohibition of knowingly obtaining or using personal information obtained from a public body for commercial solicitation directed to a person in this state, so as to substitute "state agency" for "public body". The bill provides that the provisions do not apply to a local governmental entity of a subdivision of this state or local government.

**H.3710 "SOUTH CAROLINA GARNISHMENT ACT OF 2003" Rep. Stille**

This bill enacts the "South Carolina Garnishment Act of 2003", which provides procedures which grant to persons who have sued to recover certain debts or have recovered certain judgments against another person a right to a writ of garnishment, subjecting to garnishment up to specified limitations salary and wages, interest, rents, dividends, capital gains, bonuses, and commissions of the debtor. The legislation repeals provisions relating to the prohibition against garnishments arising out of consumer contracts.

**H.3711 HATE CRIMES Rep. Whipper**

This bill provides penalties for a person convicted of certain crimes with the intent to assault, intimidate, or threaten a person because of his race, religion, color, sex, age, national origin, or sexual orientation. The bill revises provisions relating to malicious injury to personal and real property, so as to revise the penalties for malicious injury to real property offenses, and to provide additional penalties for persons who maliciously injure personal or real property of another person with the intent to assault, intimidate, or threaten that person.

## **LABOR, COMMERCE AND INDUSTRY**

### **S.79 CERTIFICATES OF REGISTRATION FOR BUILDING CODES ENFORCEMENT OFFICERS Sen. Alexander**

This bill provides that a provisional certificate of registration that is granted a building code enforcement officer without examination is valid for six months from the date of initial employment. The bill eliminates a provision relating to the issuance and renewal of certificates of registration without examination to building codes enforcement officers employed in codes enforcement for their position and location.

### **S.122 EASEMENT FOR VISITING, REPAIRING, AND MAINTAINING BURIAL GROUNDS Sen. Moore**

This bill provides that an easement exists for descendents of persons interred on real property for the purpose of visiting, repairing, and maintaining these burial grounds.

## **WAYS AND MEANS**

### **S.341 CLAIMS AGAINST OFFICERS AND EMPLOYEES OF BUDGET AND CONTROL BOARD AND MEMBERS OF THE RETIREMENT SYSTEMS INVESTMENT PANEL Senate Finance Committee**

This bill requires the State to defend members, officers, and staff of the State Budget and Control Board (the Board), and members of the Retirement Systems Investment Panel (the Panel) both during their employment and after they have left such employment, against a claim or suit arising from their performance of official duties on behalf of the Board or the Panel, respectively. The bill requires the State to indemnify these individuals for a loss or judgement incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The bill requires that the State defend officers and employees of the Board, both during their employment and after they have left their employment, against a claim or suit that arises out of performance of official duties if these duties relate to the retirement programs or the issuance of bonds or incurring of public debt and requires that the State indemnify these individuals for a loss or judgement incurred by them as a result of such claim or suit, whether the claim or suit is brought against them in their individual or official capacities, or both.

### **H.3685 HEALTH AND HUMAN SERVICES REORGANIZATION AND ACCOUNTABILITY ACT OF 2003 Rep. Quinn**

This bill enacts the "Health and Human Services Reorganization and Accountability Act of 2003." The bill reorganizes and consolidates the State's Health and Human Services agencies as follows:

- **The Continuum of Care for Emotionally Disturbed Children** is transferred to the **Department of Social Services (DSS)**;



- **The Department of Alcohol and other Drug Abuse Services (DAODAS)** and the **Department of Mental Health (DMH)** are transferred to the **Department of Health and Human Services (DHHS)**. The bill directs DHHS to establish and employ a director for each of these two agencies, and requires the State Mental Health Commission to serve in an advisory capacity to DHHS.
- Two specified inpatient alcohol and drug treatment facilities operated by the Department of Vocational Rehabilitation and the inpatient alcohol and drug treatment facility operated by DMH are transferred to DAODAS.
- **The South Carolina Commission for the Blind (SCCB)** is transferred to the **Department of Vocational Rehabilitation**, and the SCCB's board will serve in an advisory capacity to the Department of Vocational Rehabilitation.

The heads of these agencies must be evaluated annually as provided in the bill, with the evaluation to include a cost benefit analysis of the agency's programs.

The bill delineates as priority principles in the reorganization of these agencies: minimal disruption to the public; elimination of operational duplication; consolidation of programs and services; clear lines of authority; cost efficiency; and integration of program application and eligibility determination processes to the fullest extent possible.

The State Budget and Control Board Executive Director (the Director) and the agencies reporting to the Director are required to assist with the implementation of the reorganization. The Director is to provide for transfer of agency funds, offices, services, and programs as set forth in the bill. The Director has final decision-making authority regarding alignment of appropriations necessary to implement the provisions of the bill.

The bill authorizes the state directors of DSS, DHHS, the Department of Disabilities and Special Needs, the Department of Vocational Rehabilitation, and the Department of Health and Environmental Control to require offices within their respective jurisdictions to:

- locate agency employees and programs in the same building as, or near the location of, another health and human services agency;
- ensure that the agency's location is accessible to the disabled;
- consolidate specified support services between health and human services offices and post on the agency's web sites progress reports on meeting this objective.

The bill also establishes and provides for the **Department of Information Technology for Health and Human Services Agencies**, responsible for the management and administration of all information technologies for DSS, DHHS, the Department of

Disabilities and Special Needs, and Vocational Rehabilitation as these agencies are established in the bill. The bill provides that the Governor will appoint as director of this Department of Information Technology, a person trained and experienced in information technology planning, administration, and operations. The bill delineates this director's authority and responsibilities.

The bill also establishes and provides for a six-member **Joint Legislative Committee on Health and Human Services** (the Joint Committee), comprised of six appointed members of the House and the Senate and charged to study, review, and make recommendations for program changes and/or state law revisions which would facilitate a more easily understood, financially manageable, and stable State Medicaid Plan.

The bill also establishes and provides for the **Office of Inspector General for the Department of Health and Human Services** (the Office) for the purpose of conducting audits, reviews, investigations, and inspections; preventing waste, fraud, and abuse; and promoting accountability, economy, effectiveness, and efficiency. The Office would be directed by an Inspector General appointed by and serving under the Joint Committee. The bill delineates authority and responsibilities of the Inspector General and requires that this person report to the Joint Committee specified information regarding the agencies and programs included in the bill, as well as other information which may be requested by the Joint Committee. The bill transfers existing fraud and abuse staff, eligibility quality control staff, and internal audit staff within the Department, as well as the relevant components of operations and appropriations, to the Inspector General's Office. The bill authorizes the Inspector General to retain one-half of all fraud and abuse collections to enhance its efforts.

The bill also includes several other specific Medicaid initiatives, including:

- A requirement that the Department of Revenue implement electronic interface between information systems that will enable DHHS to electronically obtain certain financial information of residents of the State for purposes of determining eligibility for Medicaid coverage;
- A requirement that insurers in this State must submit the names and identifying information of its insureds to the Department of Insurance, which in turn will submit the information to DHHS for purposes of identifying Medicaid applicants who have other health insurance coverage;
- A requirement that the Director of DHHS submit an annual written *Medicaid Cost Containment Action Plan* to the Budget and Control Board which outlines the projected expenditures for the Medicaid program for the next fiscal year; the plan must be implemented unless the General Assembly enacts legislation (with a two-thirds vote in each body) specifically calling for a suspension of the plan that would reduce Medicaid expenditures;



- The bill provides that if the Budget and Control Board is informed by the Director of DHHS that general fund expenditures that match federal Medicaid dollars are projected to increase by a certain percentage, the DHHS director shall inform the Board of actions to be taken by DHHS to reduce Medicaid expenditures for the following fiscal year so as not to exceed a specified percentage growth of the State's general fund revenue for that fiscal year as estimated by the Board of Economic Advisors.
- A mandatory pilot program known as the *South Carolina Medicaid Mandatory Managed Care Pilot Program*:
  - The bill requires that DHHS implement this program in Charleston, Florence, Greenville, and Richland Counties for a five-year period unless the program fails to demonstrate budget neutrality;
  - DHHS would provide for a health care delivery system including, but not limited to, HMO's and Primary Care Case Management Providers (PCCM's) who can deliver health care services and provide options to Medicaid recipients. These health care delivery participants would be monitored to ensure that they provide the required nationally recognized standards.
  - The Joint Committee must require the designation of a third party actuary to establish HMO and PCCM rates, and the Joint Committee must evaluate the project annually as provided in the bill.
  - The bill requires and provides for Medicaid recipients to be enrolled into licensed HMO's or the state's Physician's Enhancement Program (PEP) in the pilot counties.
  - The bill requires and provides for implementation of a pilot project to assess the viability of privatizing the determination of Medicaid eligibility.

The bill requires DHHS to contract for management and operation of skilled nursing facilities formerly under the jurisdiction of the Department of Mental Health.

**S.45 TAXES ON LEASED MOTOR VEHICLES Sen. Elliott**

This bill provides that the lessee of a motor vehicle who assigns the lease or surrenders the leased vehicle to the lessor is eligible for a credit or refund on property taxes paid on the vehicle if the lease made the lessee primarily liable for the property tax and the lessee paid these taxes.

**S.64 HEALTH INSURANCE FOR SPOUSES/DEPENDANTS OF PLAN**

**PARTICIPANTS WHO ARE KILLED IN LINE OF DUTY Sen. Gregory**

This bill provides that a spouse or dependant of a person covered by the state health and dental insurance plans who is killed in the line of duty after December

31, 2001, shall receive equivalent coverage under the plans for twelve months and the State shall pay the full premium costs. The bill provides that after the twelve month period, a spouse is eligible for state-paid premiums until the spouse remarries, and a dependant is eligible until his or her eligibility would ordinarily terminate.

**H.3688 SALES AND USE TAX EXEMPTION FOR CERTAIN VEHICLES**  
**FOR DISABLED Rep. White**

This bill provides an exemption from state sales and use tax for the gross proceeds of sales or sales price of wheelchairs, motorized wheelchairs, and disability scooters.

**H.3689 PROPERTY ASSESSMENTS/PROPERTY TAXES** Rep. Miller

This bill limits to fifteen percent, valuation increases of owner-occupied residential real property and second homes attributable to quadrennial reassessment in the county. The bill specifies circumstances in which the limitation does not apply, and provides that if a property's taxable value is reduced under the provisions of the bill, that reduced value remains in effect (except as specified in the bill) until the next reassessment program is implemented. The bill provides that when a property is transferred and no longer eligible for the limitation, the property is subject to being taxed in the tax year following the transfer at market value, based on the sale or transfer of ownership or at the appraised value determined by the county assessor.

**H.3705 INCOME TAX CREDITS FOR CONTRIBUTIONS TO CERTAIN**  
**EDUCATION FOUNDATIONS Rep. Vaughn**

This bill authorizes and provides for state income tax credits up to five hundred dollars a year on a phased-in basis for certain contributions made to eligible nonprofit education foundations that provide academic assistance grants for children who attend public or nongovernment schools, a majority of whom must qualify for needs-based assistance.

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